

**ASSEMBLY BILL**

**No. 431**

**Introduced by Assembly Member Mountjoy**

February 14, 2003

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An act to amend Sections 3202 and 3208.1 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 431, as introduced, Mountjoy. Workers' compensation.

Existing law provides that workers' compensation law be liberally construed by the courts with the purpose of extending benefits for the protection of persons injured in the course of their employment.

This bill would provide that workers' compensation laws be liberally construed only after it is determined that an injury in the course of employment has occurred and the injury is both a "specific" injury, as defined, and results in serious physical or bodily harm.

Existing workers' compensation law defines a cumulative injury as one that occurs as the result of repetitive mentally or physically traumatic activities extending over a period of time, the combined effect of which causes any disability or need for medical treatment.

This bill would provide that for a cumulative injury to be compensable, an employee is required to demonstrate by a preponderance of the evidence that the injury was substantially caused by actual activities of employment.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3202 of the Labor Code is amended to  
2 read:

3 3202. This division and Division 5 (commencing with  
4 Section 6300) shall be liberally construed by the courts with the  
5 purpose of extending their benefits for the protection of persons  
6 injured in the course of their employment, *provided that the injury*  
7 *is both a “specific” injury as defined in Section 3208.1, and results*  
8 *in serious physical or bodily harm. This section shall apply only*  
9 *after it is determined that an injury in the course of employment has*  
10 *occurred.*

11 SEC. 2. Section 3208.1 of the Labor Code is amended to read:

12 3208.1. (a) An injury may be either: ~~(a)~~ (1) “specific,”  
13 occurring as the result of one incident or exposure ~~which~~ *that*  
14 causes disability or need for medical treatment; or ~~(b)~~ (2)  
15 “cumulative,” occurring as repetitive mentally or physically  
16 traumatic activities extending over a period of time, the combined  
17 effect of which causes any disability or need for medical treatment.  
18 The date of a cumulative injury shall be the date determined under  
19 Section 5412.

20 (b) *In order to establish that a cumulative injury is*  
21 *compensable, an employee shall demonstrate by a preponderance*  
22 *of the evidence that the injury was substantially caused by actual*  
23 *activities of employment.*

